

Extremely Urgent

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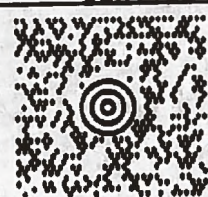
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DATE: 09 OCT 2020

SHIP ADMINISTRATOR CHRISTOPHER HLADICK
TO: U.S. EPA, REGION 10
STE 155
1200 6TH AVE

SEATTLE WA 98101-3188



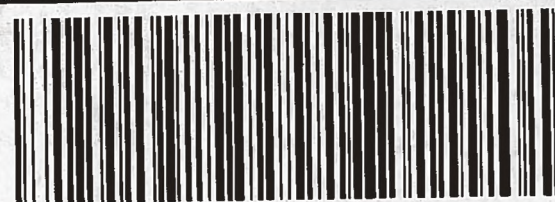
WA 981 9-03



UPS NEXT DAY AIR

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15H 13.00N Z2P 450 31.5U 07/202



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010195112 1/15 TG United Parcel Service

EH0006171

September 3, 2020

Mark W. Schneider
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VIA EMAIL AND OVERNIGHT COURIER

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Thom A. Fischer, Registered Agent
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Wilson Sonsini Goodrich & Rosati, P.C.
Attn: Todd Glass
701 Fifth Avenue, Suite 5100
Seattle, WA 98104
tglass@wsgr.com

Re: NOTICE OF INTENT TO FILE SUIT UNDER THE CLEAN WATER ACT

All:

On behalf of Puget Sound Energy, Inc. ("PSE")¹, this letter provides Thom A. Fischer, Electron Hydro, LLC, Tollhouse Energy Company, and Whitewater Engineering Corporation (collectively, "You") with sixty days' notice of PSE's intent to file a citizen suit against You under Section 505 of the Clean Water Act ("CWA"), 33 U.S.C. § 1365, for violations of the CWA for discharges of pollutants at and around the Electron Dam on the Puyallup River. You failed to comply with the "effluent standards or limitations" described in 33 U.S.C. § 1365(f) by violating 42 U.S.C. § 1311(a), which prohibits "the discharge of any pollutant by any person" unless it complies with §§ 1311, 1312, 1316, 1317, 1328, 1342, and 1344. Your discharge of pollutants has not complied with these or other requirements of the CWA.

While reconstructing parts of the dam, You used approximately 2400 yards of artificial turf covered by a plastic lining to line a bypass channel used to divert the Puyallup River at the dam. Overnight on July 29-30, 2020, the plastic lining and artificial turf tore loose and washed

¹ PSE's address is 10885 NE 4th Street, Suite 1200, Bellevue, WA 98004-5591 and its phone number is 1-888-225-5773. Any response or correspondence related to this matter should be directed to me at the phone number, email address, or mailing address above.

Thom A. Fischer
Electron Hydro, LLC
Tollhouse Energy Company
Whitewater Engineering Corporation
Todd Glass, Esq.
September 3, 2020
Page 2

into the river. Some of the pieces of artificial turf disintegrated into crumb rubber. In total, at least 4 to 6 cubic yards of crumb rubber were released into the Puyallup River. You did not have a permit or other authorization to use artificial turf in this manner, nor to discharge crumb rubber to the Puyallup River. You also failed to inform regulators of this pollution discharge until August 4, 2020, several days after the spill.

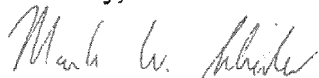
The above-described violations reflect only what the information currently available to PSE indicates. These violations are ongoing and reasonably likely to recur because the artificial turf is still installed and likely to continue to release pollutants into the Puyallup River. PSE intends to sue for all violations, including those yet to be discovered and those committed subsequent to the date of this notice of intent to sue.

Under Section 309(d) of the CWA, 33 U.S.C. 1319(d), each of the above-described violations subjects You to a penalty of up to \$55,800 per day per violation. In addition to civil penalties, PSE will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. PSE will also seek to recover costs including attorneys' fees, as permitted by Section 505(d) of the CWA, 33 U.S.C. § 1365(d).

This notice of intent to sue sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against You under Section 505(a) of the CWA for violations.

During the 60-day notice period, we would be willing to discuss effective remedies for the violations in this letter and settlement terms. If You wish to pursue such discussions in the absence of litigation, please initiate those discussions within ten days of receiving this notice so that negotiations can be completed prior to the end of the 60-day period. We do not intend to delay the filing of a complaint if discussions are continuing when the notice period ends.

Sincerely,



Mark W. Schneider

cc: Puget Sound Energy, Inc.

Andrew Wheeler, Administrator, U.S. EPA

Chris Hladick, Administrator, Region 10 U.S. EPA

Laura Watson, Director, Washington Department of Ecology